

PILLSBURY WINTHROP SHAW PITTMAN LLP
ROXANE A. POLIDORA (CA Bar No. 135972)
roxane.polidora@pillsburylaw.com
LEE BRAND (CA Bar No. 287110)
lee.brand@pillsburylaw.com
Four Embarcadero Center, 22nd Floor
San Francisco, CA 94111
Telephone: (415) 983-1000
Facsimile: (415) 983-1200

PILLSBURY WINTHROP SHAW PITTMAN LLP
DIANNE L. SWEENEY (CA Bar No. 187198)
dianne@pillsburylaw.com
2550 Hanover Street
Palo Alto, CA 94304
Telephone: (650) 233-4500
Facsimile: (650) 233-4545

Attorneys for Defendant
CBR SYSTEMS, INC.

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION**

AMY COHEN and KATHARINE
VACCARELLA, on behalf of themselves and all
others similarly situated,

Plaintiffs,

VS.

CBR SYSTEMS, INC., GI PARTNERS, and
DOES 1-10.

Defendants

Case No. 4:21-cv-06527-HSG

**STIPULATION AND [PROPOSED]
ORDER REGARDING SECOND
AMENDED COMPLAINT**

Hon. Haywood S. Gilliam, Jr.

STIPULATION

Plaintiffs Amy Cohen, Katharine Vaccarella, and Sirisha Koneru (collectively, “Plaintiffs”), and Defendants CBR Systems, Inc. (“CBR”) and GI Partners (“GI”; and together with CBR, “Defendants”), through their attorneys of record, hereby agree and stipulate as follows:

WHEREAS, Plaintiffs Cohen and Vaccarella filed an original putative class action complaint on August 24, 2021;

WHEREAS, Plaintiffs filed a first amended complaint (“FAC”) on October 7, 2021;

WHEREAS, Plaintiffs now intend to seek leave to file a second amended complaint (“SAC”);

WHEREAS, Defendants believe that Plaintiffs' claims are subject to a binding arbitration agreement;

WHEREAS, Defendants and Plaintiffs agree that it will be most efficient for the parties and the Court to address the arbitrability of Plaintiffs' claims as a threshold issue;

WHEREAS, Plaintiffs believe discovery may be required in order for them to oppose Defendants' anticipated motions to compel arbitration; and

WHEREAS, the parties believe that the initial Case Management Conference currently set for November 23, 2021, would be premature in light of the current case status.

NOW, THEREFORE, it is stipulated and agreed between the parties that:

1. Defendants shall have no present obligation to respond to the FAC;
 2. Plaintiffs shall seek leave to file an SAC by October 22, 2021;
 3. Defendants shall file motions to compel arbitration (the “Motion”) in response to the
ive complaint by November 5, 2021;
 4. The parties shall promptly meet and confer on the scope of any discovery necessary
intiffs to respond to the Motion and, by November 19, 2021, shall file either (a) a stipulation
ing the scope of any agreed discovery, or (b) a joint letter brief to the Court if such agreement
be reached:

1 5. Plaintiffs shall file any opposition to the Motion no later than three (3) weeks after the
2 earlier of (a) an order denying any discovery, or (b) the completion of any agreed or ordered
3 discovery;

4 6. Defendants shall file any replies in support of the Motion no later than four (4) weeks
5 after the deadline for any oppositions;

6 7. On or before the reply deadline, Defendants shall notice a hearing date for the Motion
7 that is at least fourteen (14) days after the reply deadline;

8 8. Notwithstanding the proscriptions of Rule 12(g)(2) of the Federal Rules of Civil
9 Procedure, in light of the upcoming motion to compel arbitration, any other motion by CBR or GI
10 pursuant to Rule 12(b), 12(e) or 12(f) of the Federal Rules of Civil Procedure shall be deferred until
11 this Court rules on the motion to compel arbitration. Any such deferred Rule 12 motion or other
12 response to the SAC shall be made within thirty (30) days of such ruling; and

13 9. The initial Case Management Conference currently set for November 23, 2021, shall
14 be continued until March 1, 2022.

15 **IT IS SO STIPULATED.**

16 Dated: October 13, 2021

PILLSBURY WINTHROP SHAW PITTMAN LLP

18 _____
19 By: /s/ Dianne L. Sweeney
By: DIANNE L. SWEENEY

20 Attorneys for Defendant CBR SYSTEMS, INC.

22 Dated: October 13, 2021

MILLER BARONDESS, LLP

24 _____
25 By: /s/ Casey B. Sypek
By: CASEY B. SYPEK

26 Attorneys for Defendant GI PARTNERS

1 Dated: October 13, 2021

MILBERG COLEMAN BRYSON PHILLIPS
GROSSMAN, PLLC

3 By: /s/ Rachel L. Soffin
4 RACHEL L. SOFFIN

5 Attorneys for Plaintiffs

10 **[PROPOSED] ORDER**

11 SO ORDERED THIS _____ day of _____, 2021.

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21 HONORABLE HAYWOOD S. GILLIAM, JR.
United States District Judge

1 **RULE 5-1(i)(3) ATTESTATION**

2 I, Dianne L. Sweeney, attest pursuant to Rule 5-1(i)(3) of the Local Rules of Practice in Civil
3 Proceedings before the United States District Court for the Northern District of California that I have
4 obtained the concurrence in the filing of this document from the other signatories.

5 Dated: October 13, 2021

6 PILLSBURY WINTHROP SHAW PITTMAN LLP

7 By: /s/ Dianne L. Sweeney
8 DIANNE L. SWEENEY

9 Attorneys for Defendant CBR SYSTEMS, INC.

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